

**STATE OF INDIANA  
BEFORE THE INDIANA ALCOHOL AND TOBACCO COMMISSION**

<b>IN THE MATTER OF</b>	)	
<b>THE PERMIT OF</b>	)	
	)	
<b>CARL E. COOPER</b>	)	
<b>d/b/a FAST EDDIE’S</b>	)	<b>PERMIT NO. RR48-18079</b>
<b>PARTYVILLE BAR &amp; GRILL</b>	)	
<b>1525 MAIN STREET</b>	)	
<b>ELWOOD, INDIANA 46036</b>	)	

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**I. BACKGROUND OF THE CASE**

The Permittee, Carl E. Cooper, d/b/a Fast Eddie’s Partyville Bar & Grill, 1525 Main Street, Elwood, Indiana 46036 (“Permittee”), permit number DL48-18079, is the holder of a type 210 Alcohol and Tobacco Commission ("Commission" or “ATC”) permit. The Permittee is charged with violating various provisions of Indiana Code and Indiana Administrative Code including: Ind. Code § 7.1-5-7-10, Minors in Tavern Prohibited; Ind. Code § 7.1-5-7-8, Sale of Alcoholic Beverages to Minor; 905 IAC 1-27-2, Public Nuisance; 905 IAC 1-20-1, Inadequate Food Service; 905 IAC 1-16.1-3, Nudity on the Licensed Premises; and 905 IAC 1-27-1, Determination of Reputation and Character.

A hearing was conducted before the Hearing Judge U-Jung Choe (“Hearing Judge”) on February 13, 2006. The ATC was represented by its Prosecutor, Jennifer Drewry. Permittee was not present. Witnesses were sworn, evidence was heard, and the Hearing Judge took the matter under advisement. The Hearing Judge now tenders her proposed Findings of Fact and Conclusions of Law to the Commission for its consideration.

## **II. EVIDENCE SUBMITTED BEFORE THE COMMISSION**

The following witnesses and exhibits were introduced by the Commission against the Permittee in this cause:

- A. Jonathan Tindal, Police Officer, Elwood Police Department;
- B. Monty McMahon, Indiana State Excise Police Officer;
- C. Phillip Cauldwell, Police Officer, Elwood Police Department; and
- D. Brenda Scott, Indiana State Excise Police Officer.
- E. Exhibit 1 – Indiana State Excise Police Case Report, March 2, 2005;
- F. Exhibit 2 – Indiana State Excise Police Case Report, February 28, 2005;
- G. Newspaper Article titled “Elwood Man Arrested on Felony Charges,” The Elwood Call Leader, February 9, 2006.
- H. Signature confirmation sheet from United States Postal Service with Carl E. Cooper’s signature.

## **III. FINDINGS OF FACT**

1. The Permittee, Carl E. Cooper, d/b/a Fast Eddie’s Partyville Bar & Grill, 1525 Main Street, Elwood, Indiana 46036, permit number DL48-18079, is the holder of a type 210 ATC permit.
2. Permittee is the sole owner of the Fast Eddie’s Partyville Bar & Grill.
3. On February 12, 2005, the Elwood Police Department Captain Phillip Cauldwell and Officer Jonathan Tindal visited the permit premises and found Ashley Dial (“Dial”) consuming a beer. Dial is nineteen (19) years of age and is a minor. Dial was previously issued summonses by the Elwood Police Department on November 28, 2004 for illegally being present in the permit premises and consuming alcoholic beverages. Dial was transported to the Elwood Police Department that night and made an oral and written statement that she was furnished with alcoholic beverages by Permittee and that the Permittee had offered her Xanax or “whatever she wanted” in exchange for sexual favors.

4. Permittee was arrested on the night of February 12, 2005 by the Elwood Police Department for charges of Minor in Tavern Prohibited and Furnishing Alcoholic Beverages to Minor.

5. On February 19, 2005, Indiana State Excise Officers Brenda Scott, Monty McMahan, Donald Breeden, Alvin Taylor, Anthony McGail, Dawn Townley, Joseph Fults and Jeff Minor entered the permit premises to follow up on investigation of minors frequenting the permit premises and to serve Notices of Violations on Permittee for the February 12, 2005 incident. The Officers conducted permit premises inspection and found stacks of sexually explicit photographs depicting naked women in various state of poses in the pizza oven. Officers also found a marijuana cigarette in the kitchen area and various pornographic videotapes and sexual devices were found in the office area. Officers also observed numerous fire code violations and noted that only food items found on the permit premises were three packages of hot dogs and bacon in the freezer.

6. At the conclusion of the permit premises inspection, Permittee was cited for violating Ind. Code § 7.1-5-7-10 (Minors In Tavern Prohibited), Ind. Code § 7.1-5-7-8 (Sale of Alcoholic Beverages to a Minor), 905 IAC 1-27-2 (Public Nuisance), 905 IAC 1-20-1 (Inadequate Food Service), and 905 IAC 1-16.1-3 (Nudity on the Licensed Premises).

7. Permittee was further ordered by the Elwood Police Department, Indiana State Fire Marshal's Office, and the Indiana State Excise Police to immediately close down the permit premises until further notice.

8. On February 7, 2006, the Permittee was arrested by the Elwood Police Department and was charged with the following crimes: (1) Dealing Controlled

Substance, Schedule III (Ind. Code § 35-48-4-2), Class A Felony; (2) Dealing Controlled Substance, Schedule IV (Ind. Code § 35-48-4-3) Class B Felony; (3) Sexual Misconduct with Minor (Ind. Code § 35-42-4-9) Class B Felony; (4) Child Solicitation (Ind. Code § 35-42-4-6) Class D Felony; and (5) Patronizing Prostitution (Ind. Code § 35-45-4-3) Class A Misdemeanor.

9. Permittee posted bond after his arrest and was aware of the February 13, 2006 Commission hearing date.

10. On February 10, 2006, the Indiana State Excise Police prepared a case report relating to Permittee's arrest with a recommendation that Permittee be cited for violating 905 IAC-1-27-1 (Determination of Reputation of Character).

11. The reputation of Permittee in the Elwood community is poor.

#### **IV. CONCLUSIONS OF LAW**

1. Permittee is disqualified from holding an Indiana alcoholic beverage permit since he is not of good moral character or good repute in the Elwood community in which he resides. Ind. Code § 7.1-3-4-2(2)(A).

2. The wrongful acts of Permittee occurred on the permit premises on numerous occasions and thus the permit premises is the site of acts that are forbidden by the Indiana penal code and thus constitute a public nuisance. 905 IAC 1-27-2.

3. Permittee did not meet adequate food service as required by 905 IAC 1-20-1.

4. Permittee has failed to maintain a high and fine reputation for decency or law obedience sufficient to continue to hold this permit. Ind. Code § 7.1-3-9-10.

5. Permittee has failed to maintain himself as a person of integrity and high repute sufficient to continue to hold this permit. *Id.*

6. The Commission may revoke a permit of a permittee for the violation of a provision of Title 7.1 or a rule or regulation of the Commission. Ind. Code § 7.1-3-23-2.

7. Revocation of the permit at issue in this matter is the appropriate remedy.

WHEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED that the permit in this matter, Carl E. Cooper, d/b/a Fast Eddie's Partyville Bar & Grill, 1525 Main Street, Elwood, Indiana 46036, permit number DL48-18079, is hereby REVOKED effective immediately. Said permit shall be delivered to the Commission to be held pending the final approval from the Commission.

DATED: \_\_\_\_\_

\_\_\_\_\_  
U-Jung Choe, Hearing Judge